REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 1, 3, 5-11, and 13-18 will be pending in the present application. Claims 13-18 have been withdrawn from consideration.

Claim 12 is objected to under 37 C.F.R. § 1.75 as being as substantial duplicate of claim 7. Claim 12 has been canceled in this response. Applicant respectfully requests removal of this objection.

Claims 13-18 were withdrawn from consideration as being directed to a non-elected invention. The Applicant concurs with the Examiner that dependent claims 13-18 define distinct inventions. However, the Applicant asserts that consideration of these claims would not prove to be unduly burdensome for the Examiner. Each of these claims is dependent from claim 6. The Examiner has considered independent claim 6. Thus, consideration of dependent claims 13-18 would necessarily require searching the same classification and field. Each claim merely adds further limitations on the step of "quantitatively measuring at least one parameter" recited in claim 6. Applicant respectfully requests reconsideration of this restriction and rejoinder of claims 13-18.

Claims 1, 3, 5, and 6 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. U.S. 6,192,876 to Denyer et al. ("the '876 patent"). Applicant appreciates the Examiner's notice that this rejection could be overcome by filing the appropriate showing under 37 C.F.R. § 1.132 that the invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another," or by an appropriate showing under 37 C.F.R. § 1.131. However, Applicant respectfully traverses this rejection for the reasons presented below.

The Examiner stated that the Applicant's amendment which added the limitation that the patient's breathing was analyzed "over a number of drug deliveries" was anticipated by the '876 reference. At column 5, lines 46-48, the '876 reference merely recites the step of

"calculating the total dose of medicament received by the patient by summing the dose of medicament received in each inhalation breath." The Examiner further stated that each breath will contain a dose of medicament; each dose of medicament is a drug delivery.

To overcome this rejection, the Applicant has amended claims 1, 5, and 6 to recite "a number of treatments" rather than "a number of drug deliveries" to clarify the invention being claimed. The invention in the present application claims functionality not suggested or disclosed in the '876 patent. The '876 patent discloses a method of calculating the total dose of medicament delivered by summing the discrete dose received in each inhalation breath until the total dose, or the treatment, has been delivered. As amended, the presently claimed invention is very different from the invention disclosed in the '876 patent. First, the '876 patent does not disclose analyzing data over multiple treatments. Specifically, the '876 patent does not disclose or suggest "a trend generator of analyzing the breath information and the characteristics of the patient's breathing over a number of treatments," "analyzing the breath information and the characteristics of the patient's breathing over a number of treatments," or "analyzing the characteristics of the patient's treatments over a number of treatments to identify trends in those characteristics" as recited in the independent claims 1, 5, and 6 of the present application. Analyzing data over multiple treatments is not taught or suggested in the '876 patent. Instead, the '876 patent discloses merely calculating when the total dose, or treatment, has been delivered.

In addition, the '876 patent does not disclose or suggest calculating any of the particular values recited in the dependent claims. The '876 patent merely discloses a method of calculating when the total dose of a treatment has been delivered by summing the individual doses delivered during each inhalation. Accordingly, the Applicant requests reconsideration of this rejection.

Claims 1, 6-8, and 12 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. U.S. 6,584,971 to Denyer et al. ("the '971 patent"). Applicant requests reconsideration of this rejection of the same reasons as set forth above with respect to the '876 patent. Namely, the '971 patent also does not disclose analyzing data over multiple treatments or

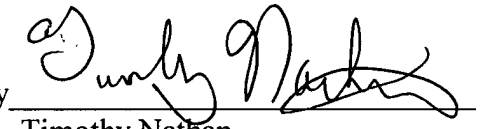
the particular values that are calculated as recited in the dependent claims. Accordingly, the Applicant requests reconsideration of this rejection.

All additional amendments to the claims have been made merely for the purposes of clarity and were not entered in order to overcome a rejection or for the purposes of patentability.

No additional claims have been added. Therefore, no additional claim fees are believed to be required as a result of the above amendments to the claims. This response is being filed with a request under the provisions under 37 C.F.R. § 1.136(a) to extend the period for response by two months. The original due date was August 18, 2005. Therefore, the period for response is extended to October 18, 2005. The Commissioner is authorized to charge the two-month extension fee, as well as any other fee required under 37 C.F.R. §§ 1.16 or 1.17, to deposit account no. 50-0558.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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